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Application No.: 10/602385

Case No.: 58453US002

REMARKS

Reexamination and reconsideration of the application are respectfully requested.

Applicants object to the finality of the office action. Under the current Patent Office policy it is acceptable to issue a final rejection on a second office action where applicant's amendments necessitated the new ground of the rejection under M.P.E.P. 706.07(a) only if the art was not submitted in an Information Disclosure Statement filed during the period set forth under 37 C.F.R. 1.97(c). The art relied upon with the new ground of rejection was of record and properly submitted in IDS's dated December 14, 2004 and September 8, 2003.

On the merits of the rejection, the Tuman et al. reference simply does not teach the claim limitation that the "breathable hook fastener" is formed from a "porous continuous film backing." The film backing from which the hook elements extend in Tuman are for example the discreet portions 55 in Figure 5 which form, for example, the discreet regions 34 of Figures 3 and 4 or discreet regions 44 in Figure 4. These discreet regions form the film backing for the stems 12 such as shown in Figures 1 and 2 where the inner region 26 is formed of a nonporous thermoplastic material. This material is not a continuous film backing which is porous, it is simply a thermoplastic film material. Although it is described that these hook patches could be applied to a web 10 which could be a woven or nonwoven or a film, the stems are not each attached separately to this web 10 as is required in Applicant's product. The film backing in Tuman to which the stems are attached is the inner regions of thermoplastic polymer 26.

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration of the application is requested.

Respectfully submitted,

Date

1/25/06

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